

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael P. Henderson,

Civil No. 13-2917 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Russell Clark, Police Officers;
Jerry Newberger; and City of
Blaine,

Defendants.

This matter is before the Court upon Plaintiff Michael P. Henderson's ("Plaintiff") objections (Doc. No. 46) to Magistrate Judge Leo I. Brisbois's October 1, 2014 Report and Recommendation ("R&R") (Doc. No. 45) insofar as it recommends that Russell Clark, Jerry Newberger, and the City of Blaine's ("Defendants") Motion for Summary Judgment be granted in its entirety. Defendants filed a response to Plaintiff's objections on October 29, 2014. (Doc. No. 47.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Defendant appears to object to the Magistrate Judge's R&R for a number of reasons. (*See generally* Doc. No. 46.) Specifically, Defendant appears to object to the R&R on the following grounds: (1) his belief that his items were wrongly seized; (2) his view that Blaine police officers act improperly when executing their duties, that they do so without appropriate supervision, and that they lie; (3) his view that the American legal system suffers from corruption; (4) his frustration with being asked to leave the Government Center while attempting to serve his documents; and (5) his view that the law should not require a party to show a custom or policy in order to state claims under *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 694 (1978).

Having carefully reviewed the record, the Court concludes that Plaintiff's objections offer no basis for departure from the R&R. The undersigned agrees with the Magistrate Judge's determination that Plaintiff fails to state all of the required elements of his claims. Because, as the Magistrate Judge states, Plaintiff explicitly represented that he is suing the Defendants in their official capacities, the Court must evaluate his § 1983 claims under *Monell*. Plaintiff has also failed to show even the existence of a First Amendment violation. While Plaintiff has unfortunately had a frustrating experience with law enforcement and the legal system, he is still required to show that the *legal* requirements of his claims have been met. *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984) ("Although *pro se* pleadings are to be construed liberally, *pro se* litigants are not excused from failing to comply with substantive and procedural law.") Plaintiff fails

to comply with the legal requirement of presenting evidence in support of his constitutional claims. Thus, the Court adopts the Magistrate Judge's recommendation that Defendants' motion for summary judgment be granted and that all claims be dismissed with prejudice.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Michael P. Henderson's objections (Doc. No. [46]) to Magistrate Judge Leo I. Brisbois's October 1, 2014 Report and Recommendation are

OVERRULED.

2. Magistrate Judge Leo I. Brisbois's October 1, 2014 Report and Recommendation (Doc. No. [45]) is **ADOPTED.**

3. Defendants' Motion for Summary Judgment (Doc. No. [27]) is **GRANTED** in its entirety.

4. This action is **DISMISSED WITH PREJUDICE.**

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 6, 2014

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge